

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16196
[Redacted],)	
)	DECISION
Petitioners.)	
)	
)	

On October 12, 2001, the Income Tax Audit Division of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers) asserting additional Idaho income taxes, penalty and interest in the amount of \$13,149 for the 2000 taxable year. A timely appeal and petition for redetermination was filed by the taxpayers. The taxpayers did not request an informal hearing before the Tax Commission. The Tax Commission, having reviewed the file, hereby issues its decision.

[Redacted] filed a joint Idaho individual income tax return for the 2000 taxable year. On that return [Redacted] was listed as a full-year Idaho resident. [Redacted] was listed as a part-year Idaho resident. Although not entirely clear, it appears that the couple reported all of [Redacted] wage income as Idaho gross income on the 2000 Idaho return, and approximately 40.5% of [Redacted] wage income as Idaho gross income. None of the interest income received by the couple during 2000 was reported as Idaho gross income on the Idaho return. In addition, none of the loss reported on the couples' federal return relating to a Schedule C business operated by [Redacted] was reported as Idaho gross income.

The 2000 Idaho individual income tax return filed by Mr. and Mrs. [Redacted] was selected for audit. The Commission's auditor requested information regarding Mr. [Redacted] residency status, information regarding the itemized deductions claimed on the couples' return, and information regarding depreciation claimed as a deduction on the Schedule C business

operated by [Redacted]. The request for information went unanswered. As a result, the Notice of Deficiency Determination that is the subject matter of this administrative protest was issued. In that Deficiency Determination, the Commission's auditor found that Mr. [Redacted] was a full-year resident of Idaho. In addition, the itemized deductions claimed by the taxpayers on their 2000 individual income tax return were disallowed, and the depreciation deduction claimed on the Schedule C was disallowed. The 5% negligence penalty and the 10% "substantial understatement of tax" penalty were added to the deficiency. See Idaho Code §§ 63-3046(a) (authorizing the negligence penalty equal to 5% of the total tax owed) and 63-3046(e) (authorizing the substantial understatement of tax penalty equal to 10% of the amount of the underpayment of tax).

The letter of protest filed by the taxpayers provided no specific legal or factual basis for objecting to the Notice of Deficiency Determination. The letter of protest, which was signed by [Redacted], stated only that "I write to dispute your presumption and subsequent pronouncement concerning the tax year 2000. I thereby express to you my disappointment and intention to contest your decision through legal process." After receiving the protest letter, the Tax Commission sent the taxpayers a "hearing rights" letter that informed them of their right to request an informal conference or to submit additional statements, documents or materials to the Commission for its review. The taxpayers did not respond. As a result, there is nothing in the record before the Tax Commission to support the taxpayers' claim that the Notice of Deficiency Determination is erroneous.

It is well established in Idaho that a Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be correct and that the burden is on the taxpayer to show that the deficiency determination is invalid or otherwise erroneous. Parsons v. Idaho State

Tax Com'n, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct.App. 1986). The taxpayers have not met that burden here.

WHEREFORE, the Notice of Deficiency Determination dated October 12, 2001, is hereby APPROVED, AFFIRMED AND MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following taxes, penalty and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2000	\$10,941	\$1,641	\$1,146	\$13,728

Interest is calculated through April 30, 2002, and will continue to accrue at the rate set forth in Idaho Code § 63-3045(6) until paid.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayers' right to appeal this decision is enclosed with this decision.

DATED this _____ day of _____, 2002.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2002, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED] Receipt No. [Redacted]
[REDACTED][REDACTED]
[REDACTED] Receipt No. [Redacted]
[Redacted] [REDACTED]

ADMINISTRATIVE ASSISTANT 1